IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

M/s. Super Seeds Pvt. Ltd. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 909/2002

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M/s. Super Seeds Pvt. Ltd. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 910/2002

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M/s. Super Seeds Pvt. Ltd. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 27/2003

and

M/s. Super Seeds Pvt. Ltd. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 81/2003

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Date of Order: August 11, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.K. Garg and Mr. Niranjan Singh, for the petitioner(s).
Mr .O.P. Rathi, Public Prosecutor for the State.

BY THE COURT:

By these four criminal miscellaneous petitions under Section 482 Cr.P.C., the petitioner seeks quashing of Criminal

Complaints No. 54/98, 341/98, 266/2002 and 241/2002 respectively filed by complainant/non-petitioner No.2 Birdi Chand Prajapat, Agriculture Officer & Seeds Inspector, Churu. All the four criminal miscellaneous petitions involve common questions of law and facts and are between the same parties, therefore, with the consent of the learned counsel for the parties, the same are being heard and decided by this common order taking the facts of S.B. Criminal Misc. Petition No. 909/2002 as the leading case.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the record of the trial Court.

The facts and circumstances giving rise to these criminal miscellaneous petitions are that the petitioner firm is manufacturer of seeds having its registered office at New Anaj Mandi, Hissar (Haryana). M/s. Kissan Pesticides, Nohar is the seller and Krishna Lal is its proprietor. A complaint was filed by the complainant/non-petitioner No.2 before the Additional Chief Judicial Magistrate, Nohar, district Hanumangarh (for short, "the trial Court" hereinafter) against M/s. Kissan Pesticides, Krishna Lal, the petitioner M/s. Super Seeds Pvt. Ltd. and the Nodal Officer C/o M/s. Super Seeds Pvt. Ltd. for the offences under Sections 6 and 7 read with Section 19-A of the Seeds Act, 1966 (for short, "the Act" hereinafter) on 17-3-1998. The trial Court

took cognizance of the offences and issued the process. By these criminal miscellaneous petitions, the petitioners seek quashing of the complaint cases on the ground that the complaints filed by the Seeds Inspector are barred by the period of limitation.

In the instant matters, the complainant Seeds Inspector took the samples of mustard from M/s. Kissan Pesticides on 3.11.1997 which were sent to the State Seeds Laboratory for analysis on 7-11-1997. The report of the State Seeds Laboratory was received on 3.12.1997 and an information to this effect was sent to M/s. Kissan Pesticides on 16-12-1997 and to the present petitioner on 8-1-1998. The samples of seeds, on being analysed, were found to be sub-standard as the same did not contain the requisite percentage of germination. Thus, from the date of the report of the State Seeds Laboratory, the period of limitation starts running and the period of limitation has to be counted from that date.

The offences provide punishment of fine of Rs.500/- and, therefore, the period of limitation, as envisaged under Section 468 Cr.P.C. is six months. In the instant matters, the report of the State Seeds Laboratory is dated 3-12-1997 and, therefore, the complaint ought to have been filed within the period of six months from this date, whereas the complaint has been filed on 17-8-1998, i.e. much after the expiry of the period

of limitation.

The other ground on which the petitioners seek quashing of the complaints is that the seeds were certified by the Haryana State Seeds Certification Authority. Rule 6 of the Seeds Rules, 1968 (for short, "the Seeds Rules" hereinafter) reads as under:-

> **"6 Functions of the Certification Agency.-** In addition to the functions entrusted to the certification agency by the Act, the Agency shall.-
>
> (a) certify seeds of any notified kinds or varieties:
>
> (b) outline the procedure for submission of applications and for growing, harvesting, processing, storage and labelling of seeds intended for certification till the end to ensure that seed lots finally approved for certification are true to variety and meet prescribed standards for certification under the Act or these rules;
>
> (c) maintain a list of recognised breeders of seeds;
>
> (d)verify, upon receipt of an application for certification that the variety is eligible for certification, that the seed source used for planting was authenticated and the record of purchase is in accordance with these rules and the fees have been paid;
>
> (e) take sample and inspect seed lots produced under the procedure laid down by the certification agency and have such samples tested to ensure that the seeds conform to the prescribed standards of certification;
>
> (f) inspect seed processing plants to see that the admixtures of other kinds and varieties are not introduced;
>
> (g) ensure that action at all stages, e.g. Field inspection, seed processing plaint inspection, analysis

of samples taken and issue of certificates (including tags, marks labels and seals) is taken expeditiously.

(h) carry out educational programmes designed to promote the use of certified seed including a publication listing certified seed growers and sources of certified seed;

(i)grant certificate (i9ncluding tags, labels, seals etc.) in accordance with the provisions of the Act and these rules;

(j) maintain such records as may be necessary to verify that seed plants for the production of certified seed were eligible for such planting under these rules;

(k) inspect fields to ensure that the minimum standards for isolation, roguing (where applicable) use of male sterility (where applicable) and similar factors are maintained at all times, as well as ensure that seedborne diseases are not present in the field to a greater extent than those provided in the standards for certification."

Rule 17 of the Seeds Rules provides that every certificate granted under sub-section (3) of Section 9) of the Seeds Act shall be in Form II and shall be granted by the certification agency, after making enquiries and satisfying itself in accordance with the provisions of the said sub-section on certain conditions for the period to be specified by the certification agency. Sub-rule (vi) of rule 17 provides that the holder of the certificate shall keep record of the details of each lot of the seed which is issued for sale in such form as to be available for inspection and to be easily identified by reference to the number of the lot as shown in the certification tag of each

container and such records shall be retained in the case of a seed for which expiry date is fixed for a period of two years from the expiry of such date. Rule 17-A of the Seeds Rules provides that certification agency shall, before granting the certificate, ensure that the seed conforms to the standards laid down in the Manual known as "Indian Seed Certification Standards" published by the Central Seed Committee, as amended from time to time.

In the instant matters, the Seeds Inspector took the samples of mustard from the sealed containers. The petitioner has been issued the certificate by the Haryana State Seeds Certificate Agency after adopting due process , found the seeds to be of the requisite standard. The samples of mustard, on being analysed by the Seeds Laboratory, Dungarpura, Jaipur, was found to be of sub-standard for the reason that its germination was found to be of 76% only.

Section 22 of the Seeds Act, 1966 pertains to Seed Analysis Report and provides that the Seed Testing Laboratory shall analyse the seed samples in accordance with the prescribed procedure and deliver the Seed Analysis Report to the Certification Agency as soon as may be, but not later than 30 days from the date of receipt of the samples unless the seed is subjected to such tests which require more than 30 days for completion of the test. In the instant case, the Seeds Testing Laboratory, Rajasthan, Jaipur has not delivered the analysis

report to the Haryana State Seeds Certification Agency within thirty days from the date of its report and, therefore, the prosecution based on the report of the State Seed Laboratory, Rajasthan, Jaipur, is bad in the eye of law.

Consequently, all the four criminal miscellaneous petitions are allowed and the criminal proceedings pending before the Chief Judicial Magistrate, Churu against the petitioner in Criminal Complaints No. 54/98, 341/98, 266/2002 and 241/2002 are hereby quashed as barred by limitation and also on merits. The stay petitions also stand disposed of.

(H.R. PANWAR), J.

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